

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

**CODE OF VIRGINIA
§ 45.1-361.26****VIRGINIA:****BEFORE THE GAS AND OIL BOARD****APPLICANTS:**

CNX Gas Company on behalf of Harrison-Wyatt LLC and Garden Realty Corporation; Harison-Wyatt LLC and Morgan Living Trust et al including Morgan Living Trust and Naaman J. Morgan Trust.

DOCKET NO.**91-0430-0107-01****RELIEF SOUGHT:**

Issuance: A Supplemental Order for Disbursement of Escrowed Funds

Action: Amending Prior Orders Affecting Drilling **Unit U-12, Tracts 2 and 4** (Referenced herein as "the Subject Drilling Unit")

Location: Buchanan County, Virginia

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **U-12** by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling Unit's Escrow Subaccount for **VGOB Tract(s) identified in Table 1.**

REPORT OF THE BOARD**FINDINGS AND ORDER**

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on January 18, 2011, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, VA.
2. **Appearances:** Mark A. Swartz of Swartz Law Offices appeared for the Applicant; and Sharon M.B. Pigeon, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account, with tract subaccounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow tract subaccounts. The Board finds that: (1) while it **does not** have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, and (2) while it **does not** have jurisdiction to interpret agreements by and between

the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, **the Board does have jurisdiction and authority to disburse funds from the Escrow Account** provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein or a decision from a court appointed Arbitrator.

4. **Prior Proceedings:**

- 4.1 (a) On April 30, 1991, the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on May 31, 1991, in Deed Book 375, Pages 401 to 421 Instrument 1395. The Supplemental Order was executed and recorded in with the Clerk of the Court, Buchanan County on January 10, 1993, in Deed Book 409, Pages 387 to 391 Instrument Number 1515.
- 4.2 To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, Harrison-Wyatt LLC and Garden Realty Corporation, Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust, gas owners in the Subject Drilling Unit have entered into royalty split agreement(s) for 4.63 acres in Tract 2 and 4.97 acres in Tract 4 became subject to the escrow requirements of the Pooling Order.
- 4.3 The Unit Operator's Miscellaneous Petition regarding Tracts 2 and 4, a copy of which is attached to and made a part hereof, states under oath that Harrison-Wyatt LLC and Garden Realty Corporation, Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust, as conflicting parties have entered into royalty split agreement(s) and should be disbursed in Tracts 2 and 4, and escrow regarding this individual claim detailed herein, is no longer required and monthly royalty payments are to be made direct to the parties.
- 4.4 The Unit Operator gave notice to Harrison-Wyatt LLC and Garden Realty Corporation, Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust, regarding its hearing on January 18, 2011, and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to Tracts 2 and 4, as identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tracts 2 and 4, the interests of Applicant identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because parties other than those seeking disbursement under this order are subject to continued payments in the escrow.
- 4.5 The Unit Operator filed the attached accounting (Exhibit A) for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. Va. Code 45.1-361.22.5 provides:

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

5.2 Applicant has certified and represented to the Board that:

- (1) Harrison-Wyatt LLC and Garden Realty Corporation, Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust, are the owners of the gas and oil acreage estate underlying acreage and percentages of certain coal seams in 4.63 acres in VGOB Tracts 2 and 4.97 acres in VGOB Tract 4 of the Subject Drilling Unit; U-12.
- (2) Net interests attributable and to be disbursed to Applicants are shown in Table 1,

VGOB Approved Disbursement
VGOB-91-0430-0107-01
U-12

As Given		Split Agreement	Acres	% of Escrowed to be Paid
Acreage Fraction	Acreage Interest			

Table 1

		Tracts 2 and 4					
Item	Tract	Disbursement Table					
						9.60000	
	2	Harrison-Wyatt LLC - Coal	4.63000				
1	2	Harrison Wyatt LLC	1	4.6300	50.0%	2.31500	24.11458%
2	2	Garden realty Corporation O&G	1	4.6300	50.0%	2.31500	24.11458%
	4	Harrison-Wyatt LLC - Coal	4.97000				
3	4	Harrison Wyatt LLC		4.9700	50.0%	2.48500	25.88542%
4	4	Morgan Living Trust, et al					
		Morgan Living Trust	5/6	4.1417	50.0%	2.07083	21.57118%
		Naaman J. Morgan Turst	1/6	0.8283	50.0%	0.41417	4.31424%

6. **Relief Granted:**

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, **and**, because there are other owners subject to escrow under the Supplemental Order, the Escrow **Agent is directed to continue the Escrow Account** for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. **Conclusion:**

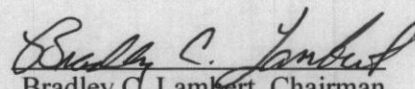
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. **Appeals:**

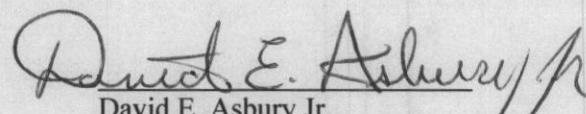
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 24 day of March, 2011, by a majority of the Virginia Gas and Oil Board.

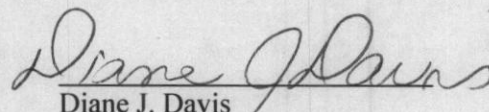

Bradley C. Lambert, Chairman

DONE AND PERFORMED this 24 day of March, 2011, by an Order of this Board.


David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

**COMMONWEALTH OF VIRGINIA)
COUNTY OF RUSSELL)**

Acknowledged on this 24th day of March, 2011, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.


Diane J. Davis
Notary Public #174394

My commission expires: 09/30/2013



BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL
DOCKET NO: VGOB 91-0430-0107-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 2 & 4
(2) AND VACATE ORDER, DUE TO ALL
PARTIES BEING LEASED AND ALL
CONFLICTS RESOLVED (Royalties currently being
paid under VP8SGU3, VGOB 06-0321-1598)

HEARING DATE: December 14, 2010

DRILLING UNIT: U-12

BUCHANAN COUNTY, VIRGINIA

MISCELLANEOUS PETITION

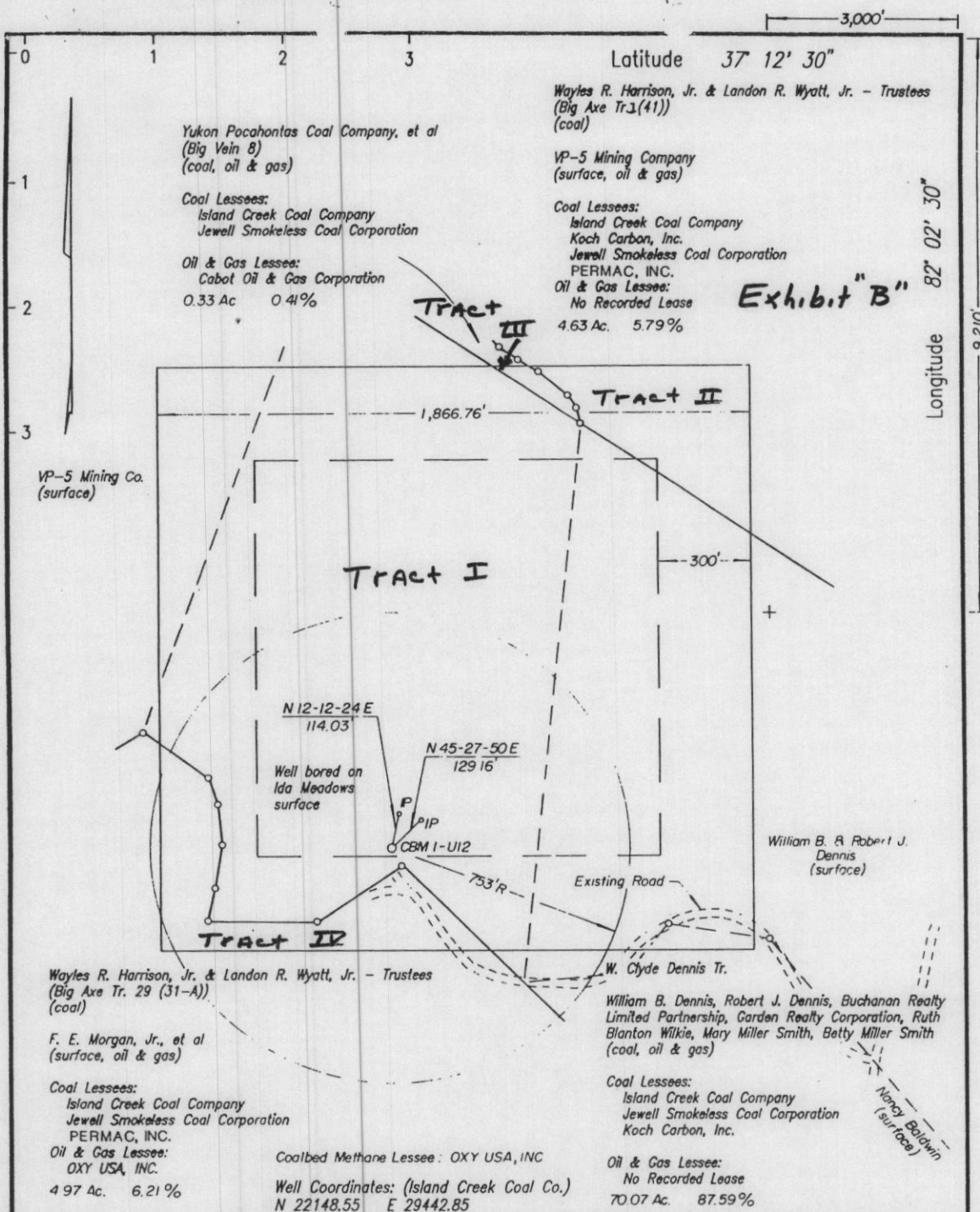
1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Blvd., Bluefield, West Virginia 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.
2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 2 & 4 as depicted upon the annexed Exhibit A-1; and (2) Vacate current order due to all parties being leased and all conflicts resolved. (Royalties currently being paid under VP8SGU3, VGOB 06-0321-1598).
3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.
4. **Type of well(s):** Coalbed methane.
5. **Factual basis for relief requested:** Harrison-Wyatt LLC and Garden Realty Corporation; Harrison-Wyatt LLC and Morgan Living Trust, et al including Morgan Living Trust, and Naaman J. Morgan Trust have entered into a royalty split agreement. The annexed Exhibit A-1, further, specifies how said royalties are to be divided and paid. Exhibits B-2 & B-3 dismisses all parties previously pooled necessary to Vacate the Order.
6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

CNX GAS COMPANY LLC
BY IT'S PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

By: _____

Anita D. Duty
Pooling Supervisor
CNX Gas Company LLC
2481 John Nash Blvd.
Bluefield, West Virginia 24701





COMPANY OXY USA, INC.

ADDRESS Drawer Q, Richlands, Virginia 24641

WELL NAME CBM 1 - U12

FARM W. Clyde Dennis, et al TRACT _____

LEASE NO. _____ ELEVATION 2506.84

ACRES 228.74 QUADRANGLE Vansant

COUNTY Buchanan DISTRICT Grundy

REG. ENGINEER _____ REG. NO. _____

CERT. LAND SURVEYOR X CERT. NO. 1355

FILE NO. _____ DRAWING NO. _____

DATE November 29, 1990 SCALE 1" = 400'

This plat is X new _____ updated

This plat X is _____ is not based on a mine
coordinate system established for the areas
of the well locations.

FORM DGO-GO-5

WELL LOCATION MAP

Well No. CBM 1 - U12

+ Denotes Location of Well on United States
Topographic Maps, Scale 1" = 24,000', Latitude
and Longitude Lines Being Represented by
Border Lines as Shown.

CERTIFICATION OF WELL PLAT

I, the undersigned hereby certify that this
plat is correct to the best of my knowledge
and belief, and shows all the information
required by law and the regulations of the
VA Well Review Board.

Glenn F. Phillips

Registered Engineer or Certified
Land Surveyor in Charge

6

Exhibit B-2
UNIT U-12
Docket # VGOB 91-0430-0107-01
List of all Owners/Claimants to be Dismissed

	Acres in Unit	Percent of Unit	Reason for Dismissal
II. <u>OIL & GAS OWNERSHIP</u>			
<u>Tract #2, 4.63 Acres</u>			
(1) Garden Realty Corporation c/o Margaret Worley Burns 108 Bexley Road Mooresville, NC 28117	4.63 acres	5.7875%	Leased
<u>Tract #4, 4.97 Acres</u>			
(1) Morgan Living Trust, et al. (N. Morgan, et al.) (ICCC Tr. 215 - 450.00 Acre Tract)	4.97 acres	6.2125%	
(a) Morgan Living Trust Ethel V. Morgan 1093 Poe Town St. Grundy, VA 24614-9613	4.14 acres 5/6 of 4.97 acres	5.1771%	Leased
(b) Naaman J. Morgan Trust Carl Puckett, Trustee 513 State Street Bristol, VA 24203-0129	0.83 acres 1/6 of 4.97 acres	1.0354%	Leased

Exhibit B-3
UNIT U-12
Docket # VGOB 91-0430-0107-01
List of Unleased Owners/Claimants

Acres in Unit	Percent of Unit
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This unit is 100% Leased

8

Exhibit E
UNIT U-12
Docket # VGOB 91-0430-0107-01
List of Conflicting Owners/Claimants that require escrow

Acres in Unit	Percent of Unit
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Escrow Account is no longer required, all conflicts have been resolved

Exhibit EE
UNIT U-12
Docket # VGOB 91-0430-0107-01
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Acres in Unit	Percent of Unit	Percent of Escrow
<u>Tract #2, 4.63 Acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Harrison-Wyatt, LLC (Big Ax Tract 41 - 274.00 acres) P.O. Box 11000 Danville, VA 24543	4.63 acres	5.7875%	24.1146%
<u>OIL & GAS OWNERSHIP</u>			
(1) Garden Realty Corporation c/o Margaret Worley Burns 108 Bexley Road Mooresville, NC 28117	4.63 acres	5.7875%	24.1146%
<u>Tract #4, 4.97 Acres</u>			
<u>COAL OWNERSHIP</u>			
(1) Harrison-Wyatt, LLC (Big Ax Tract 31 - 450.00 acres) P.O. Box 11000 Danville, VA 24543	4.97 acres	6.2125%	25.8854%
<u>OIL & GAS OWNERSHIP</u>			
(1) Morgan Living Trust, et al. (N. Morgan, et al.) (ICCC Tr. 215 - 450.00 Acre Tract)	4.97 acres	6.2125%	
(a) Morgan Living Trust Ethel V. Morgan 1093 Poe Town St. Grundy, VA 24614-9613	4.14 acres 5/6 of 4.97 acres	5.1771%	21.5712%
(b) Naaman J. Morgan Trust Carl Puckett, Trustee 513 State Street Bristol, VA 24203-0129	0.83 acres 1/6 of 4.97 acres	1.0354%	4.3142%

Exhibit A-1
Tract-by-Tract Escrow Calculation
Account Balances as of 9/30/10
Disbursement will close this account
Unit U12
VGOB 91-0430-0107-01
Acres Escrowed: 9.600000

Owners	Tract #	Acres	Owner Acres	Interest	Owners' Percent of Escrow (50%)	Amount Due Owners \$19,024.90
Harrison-Wyatt LLC - Coal	2	4.63	48.2292%		24.1146%	\$4,587.78
Garden Realty Corporation - O&G					24.1146%	\$4,587.78
Harrison-Wyatt LLC - Coal	4	4.9700			25.8854%	\$4,924.67
Morgan Living Trust, et al		4.97				
Morgan Living Trust			4.14	5/6	21.5712%	\$4,103.90
Naaman J. Morgan Trust			0.83	1/6	4.3142%	\$820.78

INSTRUMENT #1100000746
RECORDED IN THE CLERK'S OFFICE OF
BUCHANAN COUNTY ON
MARCH 30, 2011 AT 11:00AM

BEVERLY S. TILLER, CLERK
RECORDED BY: DA